

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

TENTH DAY — MONDAY, JULY 28, 2003

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 42).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Ellis; Escobar; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Denny; Farabee; Hegar; Noriega.

Absent — Castro; Eiland; Martinez Fischer; Riddle; Wilson.

The invocation was offered by John De La Garza, deacon, University Catholic Center-The University of Texas at Austin, as follows:

Blessed are you, Lord God of all creation. Through your goodness, we are sustained in mind and body.

Lord God, guide these women and men as they work for the people of Texas in this, the people's house. Remind them that all have been created in your image, worthy of respect and consideration.

Smile graciously on these individuals in whom others have placed their trust. Grant them wisdom in deliberation. Grant them courage in their convictions. Give them the good sense to recognize that their combined efforts will, in the end, be imperfect reflections of your will.

Lord God, let these representatives be instruments of your justice, and peace, and understanding. Lord God of all creation, we give you thanks. Amen.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business:

Denny on motion of Reyna.

Noriega on motion of Geren.

The following member was granted leave of absence for today because of a death in the family:

Hegar on motion of Geren.

The following member was granted leave of absence for today because of important business in the district:

Farabee on motion of Geren.

CAPITOL PHYSICIAN

The speaker recognized Representative Naishtat who presented Dr. John Turner of Austin as the "Doctor for the Day."

The house welcomed Dr. Turner and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Goolsby in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 4).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Pitts on motion of West.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Riddle now present)

(Edwards in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

HR 85 (by Hughes), Congratulating Clay Roberts of Golden, Texas, on his performance during the 2003 Special Olympics World Summer Games in Dublin, Ireland.

HR 87 (by Hughes), Honoring Charles and Lynda Minatrea on their 50th wedding anniversary.

HR 88 (by Hughes), Congratulating the Mineola Monitor on its outstanding performance in the 2003 Better Newspaper Contest, sponsored by the Texas Press Association.

HR 89 (by Hughes), Honoring Don and Eloise Cunningham of Mineola on their 50th wedding anniversary.

HR 90 (by Hughes), Honoring Danielle Whittle for being named an Outstanding Performer at the Texas State Solo-Ensemble Vocal Solo Contest.

HR 91 (by Hughes), Honoring the Holly Springs Baptist Church in Pittsburg on its centennial.

HR 110 (by Peña), Honoring Edwards Abstract and Title Company of Hidalgo County on the occasion of its 77th anniversary.

HR 111 (by Peña), Honoring Joe Garza of Edinburg for his contributions to the community.

HR 112 (by Zedler), Honoring the Mansfield News-Mirror, the Division 5 Sweepstakes winner in the 2003 Better Newspaper Contest of the Texas Press Association.

HR 113 (by Quintanilla), Congratulating Anthony Duncan of El Paso on his selection as a 2002-2003 Outstanding Restaurateur by the Texas Restaurant Association.

HR 116 (by Paxton), Honoring Don Day for his many contributions to the city of McKinney.

HR 117 (by Paxton), Commending Dr. Scott Wise for his participation in the Texas Statewide Preceptorship Program.

HR 118 (by Paxton), Commending Linda McNeff on her outstanding service to the McKinney community.

HR 123 (by Rose), Congratulating Kimberly A. Sweeney on completing the 2003 Suzuki Rock 'N' Roll Marathon.

HR 124 (by Hopson), Congratulating Don Tullos on his upcoming induction into the Texas Association of Basketball Coaches Hall of Fame.

HR 125 (by Hopson), Recognizing Kilgore for its contributions to the Holiday Trail of Lights.

HR 126 (by Heflin), In honor of Tran Dinh Truong for his leadership and philanthropic endeavors in his community.

HR 127 (by Stick), Congratulating Westwood High School in Austin on being named one of the nation's top 100 high schools by Newsweek magazine.

The resolutions were adopted without objection.

The following memorial resolutions were laid before the house:

HCR 15 was previously adopted.

HCR 16 was previously adopted.

HR 75 (by Hodge), In memory of Claude Fredrick "Fred" Dungan of Dallas.

HR 119 (by B. Cook), In memory of Larry Layne Anderson of Copperas Cove.

The resolutions were unanimously adopted by a rising vote.

HR 174 - ADOPTED
(by Stick)

Representative Stick moved to suspend all necessary rules to take up and consider at this time **HR 174**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 174, Congratulating Evan Harris of Pflugerville High School on winning first place in editorial writing at the 2003 UIL State Meet.

HR 174 was adopted without objection.

HR 175 - ADOPTED
(by Stick)

Representative Stick moved to suspend all necessary rules to take up and consider at this time **HR 175**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 175, Congratulating April Osborne of Pflugerville on winning the 3-D youth division of the National Barrel Horse Association Texas state finals.

HR 175 was adopted without objection.

HR 132 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 132**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 132, Honoring the life of Hubert L. Linenberger of Bastrop County.

HR 132 was unanimously adopted by a rising vote.

HR 182 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 182**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 182, In memory of Quentin Ware Martin.

HR 182 was unanimously adopted by a rising vote.

HR 181 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 181**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 181, In memory of Jake Jacobsen of Giddings.

HR 181 was unanimously adopted by a rising vote.

HR 148 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 148**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 148, In memory of Maynard Livingston "Tex" Rogers of Columbus.

HR 148 was unanimously adopted by a rising vote.

HR 149 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 149**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 149, In memory of Daniel Leonard Durow of Giddings.

HR 149 was unanimously adopted by a rising vote.

HR 150 - ADOPTED
(by R. Cook)

Representative R. Cook moved to suspend all necessary rules to take up and consider at this time **HR 150**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 150, In memory of Richard L. Barton, Sr., of La Grange.

HR 150 was unanimously adopted by a rising vote.

HR 166 - ADOPTED
(by B. Cook)

Representative B. Cook moved to suspend all necessary rules to take up and consider at this time **HR 166**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 166, In memory of Vernett Hicks of Corsicana.

HR 166 was unanimously adopted by a rising vote.

HR 177 - ADOPTED
(by Escobar)

Representative Escobar moved to suspend all necessary rules to take up and consider at this time **HR 177**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 177, Honoring the Venado District, South Texas Council, Boy Scouts of America, for its service to youth and the community.

HR 177 was adopted without objection.

HR 178 - ADOPTED
(by Escobar)

Representative Escobar moved to suspend all necessary rules to take up and consider at this time **HR 178**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 178, Honoring the Bluebonnet Drama Club of Kingsville.

HR 178 was adopted without objection.

HR 156 - ADOPTED
(by Rose)

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HR 156**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 156, Honoring Matt Standridge of San Marcos for his Mount Everest victory.

HR 156 was adopted without objection.

HR 184 - ADOPTED
(by Crownover)

Representative Crownover moved to suspend all necessary rules to take up and consider at this time **HR 184**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 184, Honoring Cayce Hardcastle on being named the Vernon Rotary Club's Outstanding Student of the Year 2002.

HR 184 was read and was adopted without objection.

On motion of Representative Hunter, the names of all the members of the house were added to **HR 184** as signers thereof.

HR 179 - ADOPTED
(by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 179**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 179, Recognizing Dury's Gun Shop in San Antonio.

HR 179 was adopted without objection.

HR 183 - ADOPTED
(by Riddle)

Representative Riddle moved to suspend all necessary rules to take up and consider at this time **HR 183**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 183, Honoring Misty Smith and David Riddle on their upcoming wedding.

HR 183 was adopted without objection.

On motion of Representative Dunnam, the names of all the members of the house were added to **HR 183** as signers thereof.

HR 158 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 158**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 158, Honoring the 143rd Infantry Regiment on the occasion of the 60th anniversary of its landing in Italy.

HR 158 was adopted without objection.

HR 159 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 159**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 159, Honoring Bellmead Calvary Baptist Church of Waco on its 50th anniversary.

HR 159 was adopted without objection.

(Keel in the chair)

(Eiland now present)

HR 133 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 133**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 133, Honoring the Gilmer High School Buckeye Band for earning sweepstakes honors at the UIL Region IV spring competition.

HR 133 was adopted without objection.

HR 134 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 134**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 134, Congratulating the Pittsburg Gazette on winning three awards at the 2003 Texas Press Association convention.

HR 134 was adopted without objection.

HR 135 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 135**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 135, Honoring Leon and Barbara Lester of Scroggins on their 50th wedding anniversary.

HR 135 was adopted without objection.

HR 136 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 136**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 136, Honoring Yvonne Rhodes on her retirement as a teacher from the Big Sandy Independent School District.

HR 136 was adopted without objection.

HR 137 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 137**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 137, Honoring Janice Sharpless on her retirement as a teacher from the Big Sandy Independent School District.

HR 137 was adopted without objection.

HR 138 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 138**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 138, Honoring Sharon Pace on her retirement as a teacher from the Big Sandy Independent School District.

HR 138 was adopted without objection.

HR 139 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 139**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 139, Honoring Ruby Lee McWhorter Bryant on her retirement as a teacher from the Big Sandy Independent School District.

HR 139 was adopted without objection.

HR 140 - ADOPTED
(by Hughes)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 140**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 140, Honoring Lois and Bernard Catalano of Mineola on their 50th wedding anniversary.

HR 140 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Dawson on motion of Harper-Brown.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Thompson on motion of Deshotel.

HR 131 - ADOPTED
(by Peña)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 131**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 131, Honoring the city of Edcouch on the occasion of its 74th anniversary.

HR 131 was adopted without objection.

HR 130 - ADOPTED
(by Peña)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 130**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 130, Honoring Felix Madrigal Rodriguez, Jr., on his many contributions to the Elsa community.

HR 130 was adopted without objection.

HR 129 - ADOPTED
(by Peña)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 129**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 129, Commending the Edinburg Children's Advocacy Center for its civic contributions.

HR 129 was adopted without objection.

HR 161 - ADOPTED
(by Gallego)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 161**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 161, In memory of Jerry Lynn Ratcliff of Alpine.

HR 161 was unanimously adopted by a rising vote.

HR 162 - ADOPTED
(by Gallego)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 162**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 162, Honoring Mary Mitchell on her retirement as Uvalde's economic development director.

HR 162 was adopted without objection.

HR 176 - ADOPTED
(by Gallego)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 176**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 176, Honoring Don W. Brown for his service as Texas commissioner of higher education.

HR 176 was adopted without objection.

HR 180 - ADOPTED**(by J. Keffer)**

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 180**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 180, Honoring Bob Walls and Lynda Horton-Turk of Mineral Wells on their respective elections to the offices of department commander and department president of the American Legion and American Legion Auxiliary.

HR 180 was adopted without objection.

HR 147 - ADOPTED**(by Baxter)**

Representative Baxter moved to suspend all necessary rules to take up and consider at this time **HR 147**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 147, Honoring Austin's Johnny Dee and the Rocket 88's for 30 years of musical magic.

HR 147 was adopted without objection.

(Edwards in the chair)

HCR 20 - ADOPTED**(by Garza, Escobar, P. Moreno, Guillen, and Gallego)**

Representative Garza moved to suspend all necessary rules to take up and consider at this time **HCR 20**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 20, Honoring the life of U.S. Army Sergeant Melissa Valles of Eagle Pass.

HCR 20 was read and was unanimously adopted by a rising vote.

On motion of Representative Gallego, the names of all the members of the house were added to **HCR 20** as signers thereof.

(Speaker in the chair)

UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

SB 21 ON THIRD READING
(Krusee - House Sponsor)

SB 21, A bill to be entitled An Act relating to the financing, construction, improvement, maintenance, and operation of toll facilities by the Texas Department of Transportation and the disposition of money generated by the driver responsibility program, fines imposed for certain traffic offenses, and certain fees collected by the Department of Public Safety of the State of Texas; making an appropriation.

Amendment No. 3 - Vote Reconsidered

Representative Krusee moved to reconsider the vote by which Amendment No. 3 was adopted.

The motion to reconsider prevailed.

Amendment No. 3 was withdrawn.

Amendment No. 6

Representative Krusee offered the following amendment to **SB 21**:

Amend **SB 21** on third reading by adding the following sections to the bill, appropriately numbered, and renumbering subsequent sections accordingly:

SECTION _____. (a) Section 227.014(a), Transportation Code, as added by **HB 3588**, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) If the commission determines that the mobility needs of this state would be most efficiently and economically met by jointly operating two or more facilities as one operational and financial enterprise, it may create a system composed of those facilities. The commission may create more than one system and may combine two or more systems into one system. The commission may finance, construct, and operate ~~an~~ additional facilities ~~[facility]~~ as an expansion of a system if the commission determines that the facilities ~~[facility]~~ would most efficiently and economically be constructed and operated if ~~[it were a]~~ part of the system and that the addition will benefit the system. A system may only include facilities included in a comprehensive transportation corridor developed under a comprehensive development agreement, or facilities located wholly or partly within the territory of:-

~~[(1)]~~ a metropolitan planning organization~~[-]~~ or

~~[(2)]~~ two adjacent department districts. This section does not prohibit the department from creating a system that includes a facility that will extend continuously through the territory of two or more metropolitan planning organizations or more than two adjacent department districts.

(b) Section 227.023(c), Transportation Code, as added by **HB 3588**, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(c) To the extent and in the manner that the department may enter into comprehensive development agreements under Chapter 361 with regard to turnpikes, the department may enter into a comprehensive development agreement ~~[agreements]~~ under this chapter that provides for the financing,

development, design, construction, or operation of a facility or a combination of [with regard to] facilities on the Trans-Texas Corridor. All provisions of Chapter 361 relating to comprehensive development agreements for turnpikes apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.616 to read as follows:

Sec. 201.616. ANNUAL REPORT TO LEGISLATURE ON CERTAIN MATTERS. (a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department;

(C) the Trans-Texas Corridor;

(D) rail facilities described in Chapter 91; and

(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c);

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B), (C), (D), and (E) and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

(c) The report may be submitted in an electronic format.

SECTION _____. (a) Section 91.071, Transportation Code, as added by **HB 3588**, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 91.071. ~~[PERMISSIBLE SOURCES OF]~~ FUNDING. (a) Except as provided in Subsection (b), the [The] department may use any available funds to implement this chapter [legally permissible source of funding in acquiring, constructing, maintaining, and operating a rail facility or system], including funds[-

(1) appropriations from the state highway fund that are not dedicated for another purpose by Section 7 a or 7 b, Article VIII, Texas Constitution;

(2) proceeds from bonds secured by the Texas Mobility Fund;

(3) donations, whether in kind or in cash; and

(4) loans] from the state infrastructure bank.

(b) Each fiscal year, the total amount disbursed by the department from the state highway fund to implement this chapter may [out of federal and state funds shall] not exceed \$12.5 million. This subsection does not apply to:

(1) ~~[disbursements for the acquisition or construction of rail lines on the Trans Texas Corridor;~~

~~[(2)]~~ the acquisition of abandoned rail facilities described in Section 91.007;

~~(2) [(3)]~~ funding derived from the issuance of bonds, private investment, and donations;

~~(3) federal funds[, and grants or loans] from the Federal Railroad Administration, from the [or] Federal Transit Administration, or authorized and appropriated by the United States Congress for a specific project; [and]~~

~~(4) grants awarded by the governor from the Texas Enterprise Fund;~~
and

~~(5) grading and bed preparation.~~

(b) The Texas Transportation Commission shall propose rules governing the disbursement of funds for the acquisition of abandoned rail facilities described in Section 91.007, Transportation Code. The rules shall prescribe criteria for the Texas Department of Transportation's acquisition of abandoned rail facilities. In establishing criteria, the Texas Transportation Commission shall consider the local and regional economic benefit realized from the disbursement of funds in comparison to the amount of the disbursement.

(c) If this Act receives the vote necessary for immediate effect, the Texas Transportation Commission shall propose the rules required by Subsection (b) of this section not later than September 30, 2003. If this Act does not receive the vote necessary for immediate effect, the Texas Transportation Commission shall propose the rules required by Subsection (b) of this section not later than December 1, 2003.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Naishtat offered the following amendment to **SB 21**:

Amend **SB 21** on third reading as follows:

(1) In amended Subsection (a), Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act) (SECTION 33 of the house committee printing), strike "[provided by] subsection (b) of this section." and substitute "[provided by subsection (b) of] this section."

(2) Insert the following new SECTION, appropriately numbered, and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended by adding Subsection (c) to read as follows:

(c) In addition to the priorities established by Subsection (b) of this section, such funds shall also be used for the state child health plan, Goal C of the appropriations to the Health and Human Services Commission (insure children), to provide necessary and appropriate short-term evaluative or crisis intervention mental health services and services for the treatment of serious mental illness.

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Naishtat offered the following amendment to **SB 21**:

Amend **SB 21** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended by adding Subsection (d) to read as follows:

(d) In addition to the priorities otherwise established by this section, it is also a priority of the legislature that the plan provide funding to permit a Medicaid recipient, including an adult recipient, to select a licensed psychologist, a licensed marriage and family therapist, as defined by Section 502.002, Occupations Code, a licensed professional counselor, as defined by Section 503.002, Occupations Code, or a licensed master social worker, as defined by Section 505.002, Occupations Code, to perform professional counseling services or other health care services or procedures covered under the Medicaid program if the selected person is authorized by law to perform the counseling or other services or procedures.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Menendez offered the following amendment to **SB 21**:

Amend **SB 37** on third reading, in SECTION 1 of the bill, at the end of amended Subsection (c), Section 203.032, Transportation Code, by adding the following:

(d) Notwithstanding Subsection (a) and except as provided by Subsections (b) and (c), the commission may not adopt or enforce an order under Section 203.031(a) that is applicable to a highway located in a county of less than 1.5 million in which the most populous municipality has a population of more than 1.1 million, or an order under Section 362.0041 that is applicable to a highway in such a county, if the commissioners court of the county or the governing body of the most populous municipality in the county objects to the adoption or enforcement of the order.

(Hamric in the chair)

Representative Krusee moved to table Amendment No. 9.

The motion to table prevailed.

Amendment No. 10

Representative R. Cook offered the following amendment to **SB 21**:

Amend **SB 21** on third reading by adding the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION _____. (a) Chapter 447, Government Code, is amended by adding Sections 447.010 and 447.011 to read as follows:

Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) In this section and in Section 447.011:

(1) "Cost-effective" means resulting in fuel consumption reduction with a projected savings in fuel cost over a one-year period that exceeds the cost of purchasing and using a technology.

(2) "Fuel-saving technology" means a:

(A) device containing no lead metal that is installed on a motor vehicle or non-road diesel and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent;

(B) fuel additive registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent; or

(C) fuel registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent.

(3) "Motor vehicle" and "non-road diesel" have the meanings assigned by Section 386.101, Health and Safety Code.

(4) "Proven fuel-saving technologies" means technologies shown to reduce fuel use by at least five percent in:

(A) a United States Environmental Protection Agency fuel economy test performed at a laboratory recognized by that agency and under federal test protocols;

(B) a fuel economy test performed in accordance with protocols and at testing laboratories or facilities recognized by the state energy conservation office, the Texas Commission on Environmental Quality, or the United States Environmental Protection Agency; or

(C) a field demonstration performed in accordance with Section 447.011.

(b) A state agency with 10 or more motor vehicles or non-road diesels shall reduce the total fuel consumption of the vehicles or diesels by at least five percent from fiscal year 2002 consumption levels through the use of cost-effective proven fuel-saving technologies.

(c) A state agency may delay reducing fuel use as described in this section until a list of proven fuel-saving technologies is provided by the state energy conservation office as provided by Section 447.011.

(d) A state agency may not purchase or use as a fuel-saving technology a technology that:

(1) is known to increase engine emissions above the levels established by the United States Environmental Protection Agency;

(2) may be reasonably concluded to degrade air quality or human health or to negatively impact the environment; or

(3) is known to negatively affect the manufacturer's warranty of a motor vehicle or non-road diesel.

(e) A state agency may purchase cost-effective proven fuel-saving technologies out of the agency's fuel budget.

(f) A state agency shall evaluate similar fuel-saving technologies competitively.

(g) A state agency may condition a purchase of a fuel-saving technology on the seller's agreement to refund the cost of the technology if the agency determines it to be ineffective at reducing fuel use by at least five percent before the 91st day after the date the technology is first used by the agency.

(h) A state agency may use a proven fuel-saving technology that the agency determines is cost-effective and may use a fuel-saving technology in applications that provide other benefits, including emissions reductions.

(i) A state agency may establish a program for agency employees voluntarily to:

(1) purchase fuel-saving technologies; and

(2) document reductions in fuel savings and air emissions.

(j) A state agency shall report to the state energy conservation office annually, on a form provided by the office, on the state agency's efforts and progress under this section.

Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the direction of the state energy conservation office, the Texas Department of Transportation shall demonstrate the effectiveness of at least four fuel-saving technologies on a combined maximum of 100 motor vehicles or non-road diesels in accordance with this section to determine the fuel-saving technologies that may cost-effectively reduce fuel consumption and save state revenue.

(b) The Texas Department of Transportation shall select varying ages and types of motor vehicles and non-road diesels to demonstrate the fuel-saving technologies and shall give a preference to high-use motor vehicles and non-road diesels in the selection.

(c) The Texas Department of Transportation shall demonstrate the performance of fuel-saving technologies by:

(1) assessing a technology's performance in the normal course of operations of motor vehicles or non-road diesels; and

(2) performing controlled field tests.

(d) In selecting the technologies to be evaluated, the state energy conservation office shall:

(1) consult with governmental and business organizations that are currently using fuel-saving technology;

(2) consider technologies that are proven fuel-saving technologies that have demonstrated fuel economy benefits of five percent or more in field tests or recorded use data of government organizations or businesses that operate fleets; and

(3) determine whether each technology selected has the potential to be cost-effective.

(e) A fuel-saving technology may be disqualified from being demonstrated or used if it is known to reduce engine performance, reduce the life of the engine, require additional maintenance expenses, or degrade air quality.

(f) The Texas Commission on Environmental Quality, The University of Texas Center for Transportation Research, the University of Houston Diesel Emissions Center, or another agency may be designated to assist with executing the demonstration, compiling the results, estimating the potential average fuel savings of the technologies in different applications, or preparing a final report.

(g) On completing the demonstration described by this section the state energy conservation office shall rank the fuel-saving technologies based on their fuel savings, other cost savings, and overall cost-effectiveness. The office shall:

(1) list recommended applications of the technologies;

(2) document other negative or positive effects; and

(3) prepare a concise report of these findings.

(h) The Texas Commission on Environmental Quality shall obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions. The Texas Commission on Environmental Quality may use this information to fund the United States Environmental Protection Agency verification of a technology in accordance with Section 387.003, Health and Safety Code.

(i) The state energy conservation office shall provide the report prepared under Subsection (g) to each state agency with 10 or more motor vehicles or non-road diesels and to the Legislative Budget Board.

(j) The demonstration and associated reports described by this section shall be completed not later than September 1, 2004.

(k) All results of a demonstration project under this section shall be made public on the state energy conservation office's Internet website.

(l) The state energy conservation office shall provide quarterly an updated list of all proven fuel-saving technologies on its Internet website.

(m) Money from the state highway fund may not be used for the purchase, installation, maintenance, or operation of the fuel-saving technologies being assessed or subjected to controlled field tests under this section. Repairs to state equipment resulting from demonstrations of fuel-saving technologies must be paid from the same funds used to implement this section.

(b) Chapter 2113, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RESTRICTIONS ON CAPITAL EXPENDITURES

Sec. 2113.301. PREFERENCE FOR FINANCING CERTAIN CAPITAL EXPENDITURES WITH MONEY GENERATED BY UTILITY COST SAVINGS CONTRACT. (a) In this section:

(1) "State facility purpose" means a purpose related to:

(A) the maintenance of a state-owned or state-leased building or facility; or

(B) a project as defined by Section 2166.001, including a project described by Section 2166.003.

(2) "Utility cost savings contract" means a contract under Subchapter I, Chapter 2166, or other law that guarantees utility cost savings for energy conservation measures to reduce energy or water consumption or to reduce operating costs of governmental facilities.

(b) Before a state agency may use appropriated money to make a capital expenditure for a state facility purpose, the state agency must determine whether the expenditure could be financed with money generated by a utility cost savings contract.

(c) If it is practicable to do so, a state agency that is using appropriated money must finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract.

(d) If it is not practicable for a state agency that is using appropriated money to finance a capital expenditure for a state facility purpose with money generated by a utility cost savings contract, the state agency must provide justification to the comptroller for the capital expenditure.

(e) In determining under Subsection (b) whether a capital expenditure could be financed by a utility cost savings contract, a state agency must consider whether utility cost savings generated by any department of that agency could be a potential means of financing a capital expenditure for any department of that agency. Money generated by a utility cost savings in one department of a state agency may be used to finance capital expenditures for a state facility purpose in any department of that agency.

(f) This section does not apply to an institution of higher education as defined by Section 61.003, Education Code.

(g) This section does not apply to a capital expenditure for a state facility purpose that requires expeditious action to:

(1) prevent a hazard to life, health, safety, welfare, or property; or

(2) avoid undue additional cost to the state.

(h) The Texas Building and Procurement Commission shall appoint a task force to develop design recommendations that are to be used for state facilities and that encourage rain harvesting and water recycling by state agencies using appropriated money to finance a capital expenditure for a state facility purpose.

Amendment No. 10 was withdrawn.

SB 21 - STATEMENT OF LEGISLATIVE INTENT

Amendment No. 6

REPRESENTATIVE HILL: Mr. Krusee, on a previous amendment that you offered that was accepted, I believe it's labeled floor amendment number six, I just wanted to ask you some questions in regard to legislative intent.

REPRESENTATIVE KRUSEE: Sure.

HILL: When you passed **HB 3588** in Regular Session, it required a written agreement between TxDOT and a transit authority whose project property or facility might be modified or affected by participation in the Trans Texas Corridor. This amendment does not change that requirement, does it?

KRUSEE: No, it does not.

HILL: Thank you, Mr. Krusee.

REMARKS ORDERED PRINTED

Representative Hill moved to print remarks between Representative Krusee and Representative Hill.

The motion prevailed without objection.

SB 21, as amended, was passed. (Y. Davis, Deshotel, Dukes, Edwards, Escobar, Hodge, Solomons, and Wilson recorded voting no)

HB 5 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 5** :

Austin, Texas, July 23, 2003

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 5** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bivins
Zaffirini
Williams
Whitmire
Nelson

McCall
Heflin
Ritter

On the part of the senate

On the part of the house

HB 5, A bill to be entitled An Act relating to state fiscal management, including adjustments to certain school district fiscal matters made necessary by recent changes in state fiscal management; making related appropriations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. For the fiscal biennium beginning September 1, 2003, the comptroller is appropriated from the general revenue fund the amount needed to return any available cash that was transferred to that fund from a fund outside the state treasury and to maintain the equity of the fund from which the transfer was made, as required by Section 403.092, Government Code, as amended by Section 19, **HB 2425**, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 2. Not more than \$5,000,000 of the appropriation made by Section 1 of this Act may be used to allocate earned interest to a fund outside the state treasury under Section 403.092(a), Government Code.

SECTION 3. During the state fiscal biennium beginning September 1, 2003, the comptroller shall return available cash that has been transferred from a fund outside the state treasury to a fund within the state treasury under Section 403.092(a), Government Code, together with the earned interest on the transferred amount, to the fund from which the available cash was transferred within 14 days after the date on which the available cash was transferred.

SECTION 4. The changes made to Section 42.259, Education Code, by Section 4, **HB 2425**, Acts of the 78th Legislature, Regular Session, 2003, and Section 35, **HB 3459**, Acts of the 78th Legislature, Regular Session, 2003, effectively transferring certain payments to school districts from August of a state fiscal year to September of the following fiscal year, apply only to a payment from the foundation school fund that is made on or after January 1, 2004. A payment to a school district from the foundation school fund that is made before that date is governed by Section 42.259, Education Code, as it existed on June 1, 2003, and the former law is continued in effect for that purpose.

SECTION 5. Subchapter A, Chapter 22, Education Code, is amended by adding Section 22.007 to read as follows:

Sec. 22.007. RETIREMENT SAVINGS PLAN FOR CERTAIN EMPLOYEES. (a) In this section:

(1) "Employer" has the meaning assigned by Section 821.001, Government Code.

(2) "Social security coverage" means old-age, survivors, and disability insurance benefits under Title II, Social Security Act (42 U.S.C. Section 401 et seq.), as amended.

(3) "Wages" has the meaning assigned by Section 209, Social Security Act (42 U.S.C. Section 409), as amended.

(b) An employer shall enter into a salary reduction agreement as provided by this section with each employee who:

(1) is employed by the employer in a position for which social security coverage is not provided; and

(2) is subject to the waiting period required by Section 822.001, Government Code, that precedes membership in the Teacher Retirement System of Texas.

(c) A salary reduction agreement under Subsection (b) must provide for the employer to reduce the employee's salary for the purpose of:

(1) making direct contributions to a deferred compensation plan under Chapter 609, Government Code;

(2) purchasing a qualified investment product as provided by Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes); or

(3) making direct contributions to a retirement system maintained by the employer that meets the requirements of Section 3121(b)(7)(F), Internal Revenue Code of 1986, as amended.

(d) The total amount contributed under Subsection (c) may not be less than 7.5 percent of the employee's wages for the waiting period required by Section 822.001, Government Code, that precedes membership in the Teacher Retirement System of Texas. An employer may elect to contribute any portion of the percentage amount required by this subsection.

(e) A salary reduction agreement under Subsection (b) must provide for the agreement to be terminated on the day before the first day of the first payroll period for which the employer makes a deduction for deposit with the Teacher

Retirement System of Texas under Section 825.403, Government Code, unless the employee agrees in writing to continue the agreement under the same terms or under modified terms.

(f) An employer that does not enter into a salary reduction agreement with an employee as provided by this section must provide social security coverage for the employee.

(g) This section does not prohibit an employee from entering into any other salary reduction agreement.

(h) This section expires September 1, 2005.

SECTION 6. Section 403.302, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c), if after conducting the annual study for the year 2002 the comptroller determines that the local value for a school district is invalid and the local value exceeds the state value for the school district determined by the comptroller under Subsections (a) and (b), the taxable value for the school district for that year is the district's state value as established by the comptroller. This subsection expires September 30, 2004.

SECTION 7. Section 403.302(m), Government Code, as added by **SB 671**, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 8. (a) Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Notwithstanding other provisions of this Act, based upon the passage of federal legislation that provides federal funds for the purpose of state fiscal relief, such funds are appropriated~~[, after the implementation of Section 11.15, Contingency Appropriation Reduction and Contingency Appropriation,]~~ to the Comptroller of Public Accounts in the fiscal year in which the funds are received for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the Governor and Legislative Budget Board acting under Chapter 317, Government Code, and in accordance with ~~[provided by]~~ subsection (b) of this section.

(c) Notwithstanding Section 11.15(b) of this article, an amount equal to the sum of the General Revenue Fund and general revenue dedicated account appropriations contained in this Act that are vetoed by the Governor under Section 14, Article IV, Texas Constitution, is appropriated out of the General Revenue Fund or appropriate general revenue dedicated account to the Comptroller of Public Accounts for the state fiscal biennium beginning September 1, 2003, for the purpose of transferring funds to state agencies for state fiscal relief, as directed by the Governor and Legislative Budget Board acting under Chapter 317, Government Code, and in accordance with subsection (b) of this section.

(d) This section does not prohibit the Governor and the Legislative Budget Board, acting under Chapter 317, Government Code, from making an emergency transfer of money appropriated by this section, based on need, to an agency or for a purpose that is not described by subsection (b) of this section.

(b) In the event of a conflict between this Act and another Act enacted by the 78th Legislature, 1st Called Session, 2003, that becomes law and that amends Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), this Act controls.

SECTION 9. The heading to Section 11.28, Article IX, **HB 1**, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is amended to read as follows:

Sec. 11.28. Appropriation of State Fiscal Relief Federal Funds and Reappropriation for State Fiscal Relief of Vetoed General Revenue Appropriations.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

(Wilson now present)

(Speaker in the chair)

Representative McCall moved to adopt the conference committee report on **HB 5**.

A record vote was requested.

The motion prevailed by (Record 43): 82 Yeas, 19 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Baxter; Berman; Bohac; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Driver; Edwards; Eissler; Elkins; Ellis; Flynn; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Lewis; Luna; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Phillips; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wilson; Wohlgemuth; Woolley; Zedler.

Nays — Canales; Capelo; Chavez; Dukes; Eiland; Garza; Guillen; Gutierrez; Hochberg; Laney; Mabry; McReynolds; Menendez; Naishtat; Pickett; Puente; Quintanilla; Solis; Uresti.

Absent, Excused — Dawson; Denny; Farabee; Hegar; Noriega; Pitts; Thompson.

Absent — Allen; Alonzo; Bailey; Bonnen; Branch; Burnam; Castro; Coleman; Davis, Y.; Delisi; Deshotel; Dunnam; Dutton; Escobar; Farrar; Flores; Gallego; Grusendorf; Hodge; Homer; Hupp; Isett; Jones, J.; Martinez Fischer; McClendon; Moreno, J.; Moreno, P.; Nixon; Oliveira; Olivo; Paxton; Peña; Raymond; Ritter; Rodriguez; Rose; Telford; Turner; Villarreal; Wise; Wolens; Wong.

The speaker stated that **HB 5** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENTS OF VOTE

When Record No. 43 was taken, I was in the house but away from my desk. I would have voted no.

Escobar

When Record No. 43 was taken, I was in the house but away from my desk. I would have voted no.

Gallego

When Record No. 43 was taken, I was in the house but away from my desk. I would have voted no.

Olivo

When Record No. 43 was taken, I was temporarily out of the house chamber. I would have voted no.

Peña

I was shown voting no on Record No. 43. I intended to vote yes.

Quintanilla

When Record No. 43 was taken, I was in the house but away from my desk. I would have voted no.

Raymond

When Record No. 43 was taken, I was in the house but away from my desk. I would have voted no.

Rose

REASON FOR VOTE

I agree with the school finances of the bill but do not agree with other provisions.

Gallego

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Bailey on motion of Garza.

Hupp on motion of Berman.

Paxton on motion of Laubenberg.

Ritter on motion of Ellis.

Wolens on motion of Hochberg.

Wong on motion of Harper-Brown.

The following member was granted leave of absence for today because of important business in the district:

Castro on motion of Chavez.

PARLIAMENTARY INQUIRY

REPRESENTATIVE MABRY: Mr. Speaker, it's my understanding that if we have a record vote that is within six votes of showing a quorum that we can have verification. I believe that I heard several members shout out in request of verification, is that correct?

MR. SPEAKER: The rules say that if the 'yeas' and 'nays' are close, the speaker may grant verification.

MABRY: Parliamentary inquiry, Mr. Speaker. It's my understand that if a record vote shows that we are close to a quorum and that there may be a good chance that a quorum does not exist, then the verification is appropriate in that circumstance.

MR. SPEAKER: The rules do not specifically provide for verification of a quorum, Mr. Mabry.

MABRY: Mr. Speaker, parliamentary inquiry.

MR. SPEAKER: State your inquiry, Mr. Mabry.

MABRY: Whose job is it to enforce the strict enforcement rule when a record vote is being taken?

MR. SPEAKER: It's up to the members. The strict enforcement requires that the members vote from their desk and we can only take two votes from the floor.

MABRY: Does the sergeant—parliamentary inquiry, Mr. Speaker.

MR. SPEAKER: State your inquiry, Mr. Mabry.

MABRY: Does the sergeant-at-arms staff play any role in enforcement of the strict enforcement rule when a record vote is being taken?

MR. SPEAKER: The rules do not specifically provide for duty for the sergeant-at-arms in that manner, Mr. Mabry.

MABRY: Thank you, Mr. Speaker. Of course, I don't intend to impugn the character of any member of this body, but I think I and other members personally observed members not voting from their desks which would indicate that as a result of the close vote, that there's a likelihood that a quorum does not exist on the floor and in that situation, would it not be appropriate for a verification to ensure that we do have a quorum so that we can ensure that people's business is being done?

MR. SPEAKER: The rules always prohibit one member from voting for another, Mr. Mabry.

MABRY: I understand and appreciate that, Mr. Speaker. My point being, if strict enforcement is called, if there's no mechanism for enforcement of the strict enforcement, what's the point of having it?

MR. SPEAKER: Mr. Mabry, you are welcome to lodge a complaint against a member that you see voting for another member if you so desire.

MABRY: Well, lodging a complaint apparently wouldn't do any good if there's no mechanism for the actual enforcement when someone calls for strict enforcement, is that correct, Mr. Speaker?

MR. SPEAKER: Mr. Mabry, it's up to the integrity of the members to abide by the rules.

MABRY: Thank you, Mr. Speaker.

REPRESENTATIVE DUNNAM: Mr. Speaker?

MR. SPEAKER: Mr. Dunnam, for what purpose?

DUNNAM: Rule 5, Section 55 says when the result is close—my understanding that this vote was two votes from failing?

MR. SPEAKER: No. It overwhelmingly passed.

DUNNAM: 82 to 19 is 101 people. There were two votes—

MR. SPEAKER: It did not require two-thirds to be adopted.

DUNNAM: I understand that, Mr. Speaker. What I'm suggesting is the total vote revealed 82 to 19, if my math is correct, is 101. This vote was two votes from the measure failing. It was two votes from the measure failing. And it's my understanding, Mr. Speaker, that we had this happen earlier this session. There was a vote that overwhelmingly passed but there were 106 votes on the board and the chair, at that time, ruled that that six vote margin applied when we were within six votes of a quorum. That was the chair's ruling during the general session. If you can give me a little bit, I think Mr. Collins and I can find that precedent that was established this session. This vote is within two votes of a quorum and I would suggest that the same ruling should be applied.

REPRESENTATIVE KOLKHORST: Mr. Speaker?

MR. SPEAKER: Ms. Kolkhorst, for what purpose?

KOLKHORST: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

KOLKHORST: I have a question about someone who was just on the microphone and I don't have a rule book in front me, but what if the machine doesn't show Mr. Coleman or Mr. Dunnam or Mr. Deshotel not voting although they're here? And the question becomes, we're talking about lack of quorum on two votes, but there are people on the floor that have not voted. So how is that handled, like Mr. Dunnam and Mr. Coleman?

REPRESENTATIVE DESHOTEL: Mr. Speaker, I can speak for myself. I was not on the floor at the time of the vote.

MR. SPEAKER: If you'd let me answer Ms. Kolkhorst, I would appreciate it. Ms. Kolkhorst, we can count them on a quorum only if we request that they vote.

KOLKHORST: Say that one more time, Mr. Speaker?

MR. SPEAKER: We can count them as a quorum, a part of a quorum, only if we request that they vote.

KOLKHORST: Okay, thank you, Mr. Speaker.

REPRESENTATIVE COLEMAN: Mr. Speaker?

MR. SPEAKER: Mr. Coleman, are you now here?

COLEMAN: No, I'm still here.

MR. SPEAKER: Thank you, Mr. Coleman, go ahead.

COLEMAN: Parliamentary inquiry.

MR. SPEAKER: State your inquiry, Mr. Coleman.

COLEMAN: So does that mean that Mr. Driver is here as well?

MR. SPEAKER: I don't know. I don't know if Mr. Driver is here or not, Mr. Coleman.

COLEMAN: Well, did Mr. Driver vote? Parliamentary inquiry. Did Mr. Driver vote?

MR. SPEAKER: I have no idea, Mr. Coleman. You can check with the chief clerk and find out.

COLEMAN: But, I mean, if the record vote states that people voted or not voted, is he here?

MR. SPEAKER: Mr. Coleman, I don't know if he's here. If you'd like to come down and check with the chief clerk, she can tell if he's voted, and you can go see if you can find Mr. Driver, whatever. You didn't vote, and you're standing at the back microphone. Mr. Dunnam didn't vote, he's standing at the front microphone. Mr. Deshotel didn't vote, and he's standing at the front. Are y'all here or not here?

COLEMAN: Parliamentary inquiry.

MR. SPEAKER: If you'll allow me to finish, Mr. Coleman. I'm usually courteous to allow you to finish.

COLEMAN: Yes, sir.

MR. SPEAKER: Thank you. And all I'm saying is it's not my responsibility to do that checking. If you'd like to do it and bring it to the knowledge of the chair, we'd be glad to have that happen.

COLEMAN: Well, I will do that checking and bring it back to you in writing.

MR. SPEAKER: You do that, Mr. Coleman. Thank you.

REPRESENTATIVE HOCHBERG: Mr. Speaker?

MR. SPEAKER: Mr. Hochberg, for what purpose?

HOCHBERG: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

HOCHBERG: Mr. Speaker, can you explain the meaning of Section 56 of Rule 5? That would seem, and I'm asking this as a question, it would seem to imply that a verification of quorum is in order if there is doubt as to the presence of a quorum. But maybe that's not what it says and so I'd like that explained if I could.

MR. SPEAKER: That refers only to the initial registration, Mr. Hochberg, where members register originally.

HOCHBERG: Thank you, Mr. Speaker.

REPRESENTATIVE MABRY: Mr. Speaker?

MR. SPEAKER: Mr. Mabry, for what purpose?

MABRY: Parliamentary inquiry, please.

MR. SPEAKER: State your inquiry.

MABRY: Is the motion to verify being denied?

MR. SPEAKER: That is correct, Mr. Mabry.

REPRESENTATIVE BURNAM: Mr. Speaker?

MR. SPEAKER: Mr. Burnam, for what purpose?

BURNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

BURNAM: Is the parliamentarian aware of when the last time or is there any historical evidence to indicate that a request for verification has ever been denied before?

MR. SPEAKER: We have no idea, Mr. Burnam.

BURNAM: So as far as you know, this is the first time in the history of the Texas House of Representatives that a request for verification on whether or not there's a quorum has been denied?

MR. SPEAKER: We don't know whether it is or isn't, Mr. Burnam.

BURNAM: Well, thank you. The media was asking me that and I didn't know the answer to the question either. Thank you.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 5).

HR 186 - ADOPTED (by Bohac)

Representative Bohac moved to suspend all necessary rules to take up and consider at this time **HR 186**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 186, In memory of Randall "Randy" Lee Neumeyer of Houston.

HR 186 was unanimously adopted by a rising vote.

REMARKS ORDERED PRINTED

Representative Gallego moved to print the parliamentary inquiry regarding Record Vote No. 43.

The motion prevailed without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of personal business:

Bonnen on motion of Solomons.

(Lewis in the chair)

HR 187 - ADOPTED
(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 187**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 187, Honoring Robert C. (Bob) Parker on the occasion of his retirement from the Texas Department of Transportation.

HR 187 was adopted without objection.

On motion of Representative Puente, the names of all the members of the house were added to **HR 187** as signers thereof.

HR 188 - ADOPTED
(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 188**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 188, In memory of Alan Ray "Sonny" Holleyman.

HR 188 was unanimously adopted by a rising vote.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business:

Deshotel on motion of Kolkhorst.

Telford on motion of Hopson.

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Farrar on motion of Mabry.

Flores on motion of McClendon.

J. Moreno on motion of Mabry.

HR 189 - ADOPTED
(by Rodriguez)

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 189**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 189, Honoring Ruben Ramos for his achievements in music.

HR 189 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Rose on motion of Dukes.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Environmental Regulation, upon lunch recess today, Desk 28, for a formal meeting, to consider **SB 55**.

Calendars, 1:30 p.m. today, speakers committee room, for a formal meeting.

Government Reform, upon lunch recess today, Desk 108, for a formal meeting, to consider **SB 22**.

RECESS

Representative E. Jones moved that the house recess until 3 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:06 p.m., recessed until 3 p.m. today.

AFTERNOON SESSION

The house met at 3 p.m. and was called to order by the speaker.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business:

Canales on motion of McReynolds.

Coleman on motion of Mabry.

Hodge on motion of McReynolds.

Peña on motion of McReynolds.

Martinez Fischer on motion of Gallego.

SB 21 - STATEMENT OF VOTE

On July 21, when Record No. 39 was taken on passage to third reading of **SB 21**, I was in the house but away from my desk. I would have voted yes.

Miller

ADJOURNMENT SINE DIE

Representative Lewis moved that the house adjourn sine die in memory of Dr. Charles Scifres, Deputy Director of the Texas A&M Agriculture Extension Service.

(Rose now present)

A record vote was requested.

The motion prevailed by (Record 44): 91 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Delisi; Dunnam; Edwards; Eiland; Eissler; Elkins; Ellis; Flynn; Gallego; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kuempel; Laney; Laubenberg; Lewis; Luna; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Phillips; Puente; Quintanilla; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; West; Wilson; Wohlgemuth; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Bonnen; Canales; Castro; Coleman; Dawson; Denny; Deshotel; Farabee; Farrar; Flores; Hegar; Hodge; Hupp; Martinez Fischer; Moreno, J.; Noriega; Paxton; Peña; Pitts; Ritter; Telford; Thompson; Wolens; Wong.

Absent — Alonzo; Branch; Burnam; Chavez; Davis, Y.; Driver; Dukes; Dutton; Escobar; Garza; Giddings; Guillen; Gutierrez; Hochberg; Homer; Isett; Jones, J.; Krusee; Mabry; McClendon; Menendez; Moreno, P.; Naishtat; Nixon; Oliveira; Olivo; Pickett; Raymond; Rodriguez; Solis; Turner; Villarreal; Wise.

Speaker Craddick, at 3:10 p.m., pronounced the House of Representatives of the First Called Session of the Seventy-Eighth Legislature adjourned sine die.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 122 (By Uresti), Relating to making appropriations for certain health and human services purposes and certain purposes related to education.

To Appropriations.

HB 123 (By Uresti), Relating to benefits provided under the state child health plan.

To Appropriations.

HB 124 (By Uresti), Relating to availability of certain services under the Medicaid program and making an appropriation.

To Appropriations.

HB 125 (By Hughes), Relating to the provision of water service, sewer service, and wastewater treatment service.

To Natural Resources.

HB 126 (By Coleman), Relating to appropriations to the Texas excellence fund and the university research fund.

To Appropriations.

HCR 19 (By Chavez), Memorializing Congress to urge the EPA to redesignate El Paso from a nonattainment area to an attainment area.

To Environmental Regulation.

SB 10 to Judicial Affairs.

SB 22 to Government Reform.

SB 37 to Transportation.

SB 52 to Transportation.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 4

HB 16, HCR 10, HCR 12

House List No. 5**HCR 2, HCR 3**

APPENDIX

ENROLLED**July 28 - HB 5, HB 16, HCR 2, HCR 3, HCR 10, HCR 12****SENT TO THE GOVERNOR****July 30 - HB 11****SIGNED BY THE GOVERNOR****August 4 - HB 11**